

FIRST REGULAR SESSION

SENATE BILL NO. 75

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS CHAMPION AND WHEELER.

Pre-filed December 1, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

0445S.011

AN ACT

To repeal sections 208.568 and 208.574, RSMo, and to enact in lieu thereof seven new sections relating to the coordination of benefits for the Medicare Prescription Drug, Improvement and Modernization Act of 2003, with a termination date for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 208.568 and 208.574, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 208.568, 208.574, 208.575, 208.577, 208.579, 208.581, and 208.583, to read as follows:

208.568. 1. There is hereby created in the state treasury the "Missouri Senior Rx Fund", which shall consist of all moneys deposited in the fund pursuant to sections 208.550 to 208.571 and all moneys which may be appropriated to it by the general assembly, from federal or other sources.

2. The state treasurer shall administer the fund and credit all interest to the fund and the moneys in the fund shall be used solely by the commission for the Missouri Senior Rx program and the division of aging for the implementation of the program for seniors established in sections 208.550 to 208.571.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall [not] revert to the credit of the [general revenue fund at the end of the biennium] **Missouri senior prescription drug plan fund created pursuant to section 208.586, following notice to the**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

revisor of statutes by the Missouri senior prescription drug plan commission that the Medicare Prescription Drug, Improvement and Modernization Act of 2003 has been fully implemented.

208.574. The provisions of sections 208.550 to 208.571 shall [be reauthorized every four years] terminate following notice to the revisor of statutes by the Missouri senior prescription drug plan commission that the Medicare Prescription Drug, Improvement and Modernization Act of 2003 has been fully implemented.

208.575. 1. For the purposes of sections 208.575 to 208.583, the following terms shall mean:

(1) "2006 standard drug benefit coverage gap", the difference in prescription drug coverage incurred each year by an eligible senior:

(a) After the eligible senior has incurred qualified prescription drug expenses equal to the 2006 initial coverage limit as defined in the Medicare Prescription Drug, Improvement and Modernization Act of 2003; and

(b) Before the eligible senior has incurred qualified prescription drug expenses equal to the 2006 annual out-of-pocket threshold as defined in the Medicare Prescription Drug, Improvement and Modernization Act of 2003;

(2) "Eligible senior", any Missouri resident who is sixty-five years of age or older, and who is a participant in the Medicare Part D benefit, and whose income is:

(a) Equal to or greater than one hundred fifty percent of the federal poverty level and less than two hundred percent of the federal poverty level; or

(b) Less than one hundred fifty percent of the federal poverty level and the individual does not qualify for Medicare Part D low-income subsidies because the value of the individual's assets exceeds that amount allowed for qualification pursuant to P.L. 108-173.

(3) "Prescription drug plan (PDP) sponsors", providers who meet the requirements as prescribed in section 1860D-12 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173.

2. In order to fill the gap created due to the enactment of the Medicare Prescription Drug, Improvement and Modernization Act of

2003, P.L. 108-173, the "Missouri Senior Prescription Drug Plan" is established within the department of health and senior services. The Missouri senior drug prescription drug plan shall be effective following notice to the revisor of statutes by the Missouri senior prescription drug plan commission that the Medicare Prescription Drug, Improvement and Modernization Act of 2003 has been fully implemented.

3. The Missouri senior prescription drug plan is not an entitlement to replace the Medicare Prescription Drug, Improvement and Modernization Act of 2003. Benefits shall be limited to the level supported by the moneys explicitly appropriated pursuant to this section. If in any fiscal year the commission projects that the total cost of the plan will exceed the amount currently appropriated for the plan, the commission may request a supplemental appropriation to fund the plan or may direct the prescription drug plan sponsor to implement cost control measures to reduce the projected cost. The Missouri senior prescription drug plan is a payer of last resort.

4. Subject to appropriations and other available funds, the Missouri senior prescription drug plan shall pay seventy-five percent of the 2006 standard drug benefit coverage gap of up to two thousand eight hundred fifty dollars, which shall not exceed two thousand one hundred thirty-eight dollars, for each eligible senior in a plan year as defined by the commission. The eligible senior shall pay the remaining amount of such prescription drug expenses incurred.

5. Applications for the Missouri senior prescription drug plan will be conducted jointly with applications for the Medicare Part D benefit. The enrollment period for the state plan shall correspond with the enrollment period for the federal program as prescribed in P.L. 108-173.

6. The Missouri senior prescription drug plan shall include and provide coverage for only the prescription drugs that are covered in the prescription drug plan sponsors' formulary pursuant to the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173.

7. The Missouri senior prescription drug plan shall not include coverage of the following drugs or classes of drugs, or their medical uses:

(1) Agents when used for anorexia or weight gain;
(2) Agents when used to promote fertility;
(3) Agents when used for cosmetic purposes or hair growth;
(4) Agents when used for the symptomatic relief of cough and
colds;

(5) Prescription vitamins and mineral products, except prenatal
vitamins and fluoride preparations;

(6) Nonprescription drugs;

(7) Covered outpatient drugs which the manufacturer seeks to
require as a condition of sale that associated tests or monitoring
services be purchased exclusively from the manufacturer or its designee;

(8) Barbiturates;

(9) Benzodiazepines.

8. The Missouri senior prescription drug plan shall also exclude
prescription drugs which are not "reasonable and necessary" as defined
pursuant to Section 1862(a) of P.L. 108-173.

9. For the covered prescription drugs, the state shall not be
charged an amount in excess of the price charged pursuant to the
federal benefit in P.L. 108-173.

10. The Missouri senior prescription drug plan shall be deemed
the authorized representative for each eligible senior to assist with the
enrollment, coordination, and disputes that may arise with the Medicare
Part D plan.

208.577. 1. There is hereby established the "Missouri Senior
Prescription Drug Plan Commission" within the department of health
and senior services to govern the implementation and administration of
section 208.575. The commission shall consist of the following twelve
members:

(1) The lieutenant governor, in his or her capacity as advocate for
the elderly;

(2) Two members of the senate, with one member from the
majority party appointed by the president pro tem of the senate and one
member of the minority party appointed by the president pro tem of the
senate with the concurrence of the minority floor leader of the senate;

(3) Two members of the house of representatives, with one
member from the majority party appointed by the speaker of the house

of representatives and one member of the minority party appointed by the speaker of the house of representatives with the concurrence of the minority floor leader of the house of representatives;

(4) The director of the division of medical services in the department of social services;

(5) The director of the department of health and senior services;

(6) A pharmacist appointed by the governor with the advice and consent of the senate;

(7) A physician appointed by the governor with the advice and consent of the senate;

(8) A representative from a senior advocacy group appointed by the governor with the advice and consent of the senate;

(9) A representative from an area agency on aging appointed by the governor with the advice and consent of the senate; and

(10) A representative from the pharmaceutical manufacturers industry as a nonvoting member appointed by the president pro tem of the senate and the speaker of the house of representatives.

2. Members appointed by the governor shall serve for three-year terms. Other members, except legislative members, shall serve for as long as they hold the position which made them eligible for appointment. Legislative members shall serve during their current term of office but may be reappointed.

3. The commission shall elect a chair and may employ administrative staff as necessary to assist in the performance of the commission's duties.

4. The members of the commission shall receive no compensation for their service on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties as a member of the commission.

5. The commission shall have the authority to:

(1) Contract with prescription drug plan sponsors for the implementation and administration of the Missouri senior prescription drug plan;

(2) Contract with prescription drug plan sponsors for the annual verification of eligibility of applicants for the Missouri senior prescription drug plan;

(3) Adjust the fee payments for prescription drug plan sponsors;
(4) Set and adjust coinsurance at different amounts;
(5) Coordinate with the Missouri senior Rx commission to avoid any duplication in coverage and to ensure a smooth transition between the senior Rx program and the Missouri senior prescription drug plan; and

(6) Perform any other function necessary for the implementation and administration of the Missouri senior prescription drug plan.

6. The commission also shall apply to the United States Department of Health and Human Services for any applicable federal waivers or public or private grants.

7. The commission shall have rulemaking authority for the implementation and administration of sections 208.575 to 208.583. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

208.579. 1. Subject to appropriations, there is hereby established the "Missouri Senior Prescription Drug Plan Clearinghouse" within the Missouri senior prescription drug plan commission. The commission may submit requests for proposal for the third-party administration of the clearinghouse. The purpose of the clearinghouse shall include, but not be limited to:

(1) Assist all Missouri residents in accessing prescription drug programs;

(2) Educate the public on quality drug programs and cost-containment strategies; and

(3) Serve as a resource for pharmaceutical benefit issues.

2. The administration of the clearinghouse shall include, but not be limited to:

(1) Providing a one-stop-shopping clearinghouse for all information for seniors regarding prescription drug coverage programs and health insurance issues;

(2) Targeting outreach and education including print and media, social service and health care providers to promote the program;

(3) Maintaining a toll-free 800-phone number staffed by trained customer service representatives;

(4) Providing the state with measurable data to identify the progress and success of the plan, including but not limited to, the number of individuals served, length and type of assistance, follow-up and plan evaluation; and

(5) Providing information on eligibility, enrollment, and benefits for the Missouri senior prescription drug plan on the department of health and senior services Internet website.

208.581. 1. There is hereby created in the state treasury the "Missouri Senior Prescription Drug Plan Fund", which shall consist of all moneys deposited in the fund pursuant to sections 208.575 to 208.583 and all moneys which may be appropriated to it by the general assembly, from federal or other sources.

2. The state treasurer shall administer the fund and credit all interest to the fund and the moneys in the fund shall be used solely by the Missouri senior prescription drug plan commission and the department of health and senior services for the implementation of the Missouri senior prescription drug plan established in sections 208.575 to 208.583.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

208.583. The provisions of sections 208.575 to 208.583 shall be subject to reauthorization every four years.